UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,008	02/28/2002	Jacquelyn Annette Martino	US020031	1078

24737   7590   12/10/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
12/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/086,008
Filing Date: February 28, 2002
Appellant(s): MARTINO ET AL.

Michael J. Medley
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/16/07 appealing from the Office action

mailed 02/16/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

NEW GROUND(S) OF REJECTION

Claims 15-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,812,124	Eick	09-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Eick et al. (Eick) (5,812,124).

As to claim 1, Eick discloses a device for displaying search results (Figs. 2 and 16-23), comprising:

at least one user interface and supporting processor connected thereto (Fig. 3), said user interface having at least one control and at least one output (column 4, lines 20-62);

said processor being configured to accept search results (column 9, line 51-column 10, line 55);

said user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results (column 4, lines 20-62 and column 9, line 51-column 10, line 55);

said processor being configured to generate display data including multiple symbols (letters representing first letters in program titles; Figs. 16-22 and column 9, line 51-column 10, line 55) corresponding to respective one of said search results such that ones of said search results having a same value of said first feature are aggregated such that said ones are displayed as a single symbol (wherein all programming which begins with a particular letter is aggregated under that letter; Figs. 16-22 and column 9, line 51-column 10, line 55), wherein said ones of said search results are expandable such that symbols that represent each of said ones are displayed upon receipt of a user selection of said single symbol (user selection of the letter to view the program listing; see Fig. 19-22; column 9, line 51-column 10, line 55);

said processor being adapted to output said symbols for display by said user interface in the format of a list extending along a first axis of a display area (see Fig. 19-22; column 9, line 51-column 10, line 55).

As to claim 2, Eick discloses wherein said display data including symbols corresponding to multiple instances of a subset of said search results having a second feature and the same value of said first feature (titles with more than one occurrence; see Fig. 22; column 10, lines 5-19), each of said subset of said search results being selectively displayable by said user interface developed along a second axis of said display area (channel vs. time display indicating all of the occurrences of NOVA; column 10, lines 15-55).

As to claim 3, Eick discloses wherein said subset of said search results is displayed by said user interface along said second axis of said display area by indicating said symbol corresponding to said subset of said search results (column 10, lines 15-55).

As to claim 4, Eick discloses wherein said first axis defines a column (see Figs. 18-22).

As to claim 5, Eick discloses wherein said ones are displayed by said user interface along a second axis of said display area on a display control (see Fig. 19-23; column 9, line 51-column 10, line 55).

As to claim 6, Eick discloses wherein said display control permits selective expansion of details of said ones (selection of a symbol to access more information about items located under that symbol; see Fig. 19-23; column 9, line 51-column 10, line 55).

As to claim 7, Eick discloses wherein said ones may be selectively aggregated about chosen second features (aggregated together for having the same title and different times; see Fig. 22; column 10, lines 5-19).

As to claim 8, Eick discloses wherein said search results are broadcast events (broadcast television programs; column 4, lines 10-62).

As to claim 9, Eick discloses wherein said first feature includes title (searching by title; column 9, line 51-column 10, line 55).

As to claim 10, Eick discloses a device for displaying search results (Figs. 2 and 16-23), comprising:

at least one user interface and supporting processor connected thereto (Fig. 3),

said user interface having at least one control and at least one output (column 4, lines

20-62);

said processor being configured to accept search results (column 9, line 51-

column 10, line 55), said search results including broadcast events (broadcast television

programs; column 4, lines 10-62);

said user interface being adapted to apply control signals responsive to user

input indicating a first feature of each of said search results (column 4, lines 20-62 and

column 9, line 51-column 10, line 55);

said processor being configured to selectively aggregate a subset of each of said

search results having the first feature in common such that ones of said search results

having a same value of said first feature are aggregated such that said ones are

displayed as a single symbol (wherein all programming which begins with a particular

letter is aggregated under that letter; Figs. 16-22 and column 9, line 51-column 10, line

55), said subset being expandable such that symbols representing each search result

within the subset are displayed together with the single symbol upon user selection said

single symbol (user selection of the letter to view the program listing; see Fig. 19-22;

column 9, line 51-column 10, line 55).

As to claim 11, Eick discloses wherein the subset of said search results having a

second feature and commonality with respect to the first feature (titles with more than

one occurrence; see Fig. 22; column 10, lines 5-19), each of said subset of said search

results being selectively displayable by said user interface developed along a second axis of said display area (channel vs. time display indicating all of the occurrences of NOVA; column 10, lines 15-55).

As to claim 12, Eick discloses wherein said subset of said search results is displayed by said user interface along said second axis of said display area by indicating said symbol corresponding to said subset of said search results (column 10, lines 15-55).

As to claim 13, Eick discloses wherein said first axis is vertical (see Figs. 18-22) and said second is horizontal (Fig. 23).

As to claim 14, Eick discloses wherein said subset of said search results is displayed by said user interface along a second axis of said display area on a display control (see Fig. 19-23; column 9, line 51-column 10, line 55).

As to claim 15, Eick discloses a method of displaying search results (Figs. 2 and 16-23), comprising:

receiving user data indicating a first feature about which to consolidate search results (column 4, lines 20-62 and column 9, line 51-column 10, line 55), wherein said search results are obtained through utilization of a textual query (alphabetical text searching of program titles; Figs. 16-23 and column 9, line 51-column 10, line 55);

receiving user data indicating a second feature about which to consolidate said

search results (user selection of a next letter; Fig. 21-22; column 9, line 51-column 10,

line 55);

identifying search results having same values of said first feature and said

second feature (see Figs. 20-22; column 9, line 51-column 10, line 55);

generating a display wherein each of said search results having said same

values is depicted by a single symbol (see Figs. 16-22); and

expanding said each of said search results such that additional information about

said each is displayed in response to said single symbol being indicated by a user (see

Fig. 19-23; column 9, line 51-column 10, line 55).

As to claim 16, Eick discloses wherein said search results include broadcast

events (broadcast television programs; column 4, lines 10-62).

As to claim 17, Eick discloses wherein said first feature and said second feature

include title (searching by letters within the title; column 9, line 51-column 10, line 55).

As to claim 18, Eick discloses wherein the textual query is for a program title

(column 9, line 51-column 10, line 55).

As to claim 19, Eick discloses wherein said processor is configured to expand

said each of said search results in a hierarchical manner in response to said single

symbol indicated by said user (see Fig. 19-23; column 9, line 51-column 10, line 55).

(10) Response to Argument

On pages 7-8, appellant argues that Eick discloses sequential filtering and fails to

disclose aggregating search results.

In response, Eick discloses wherein a user will initiate a search of movies by title

(column 9, lines 51-61). In response to the user input, the system will output a display

with search results aggregated by the first letter of the title. As seen in Fig. 19, all of the

title beginning with the letter 'N' are aggregated together. Only the letter 'N' itself is

displayed. Upon selection of this letter, the results corresponding to this aggregated

grouping are then expanded and displayed (see Fig. 20; column 10, lines 1-19). Thus,

Eick clearly meets the current claim limitations, as search results corresponding to a

same value of a first feature (beginning with the same first letter) are aggregated such

that symbols representing the results are displayed and expandable upon selection by

the user (wherein multiple first letters are displayed, and the aggregation of programs

beginning with a particular letter are displayed upon user selection).

Appellant's arguments are incorrect, as appellant's arguments are incorrectly

interpreting the first feature of Eick. The user input of Eick, indicating a first feature, is

not directed to a particular letter, but to the desire for an alphabetical title search

(column 9, lines 57-59). In response to this input from the user, the system will

aggregate the programs around their corresponding first letter (as seen in Fig. 7). The

user selection of a particular letter, such as 'N', then results in the expanding of the

aggregated search result.

Appellant's arguments that Eick fails to disclose aggregating search results are

incorrect, as Eick aggregates all of the results of the title search requested by the user.

The identified titles are grouped together based upon their corresponding first letters.

As the claims merely require "search results", Eick's title search clearly meets this

limitation. Details directed towards a particular type of search and search results, as

desired by appellant, are not required by the current claim language.

In response to appellant's arguments on pages 8-10, Eick specifically discloses

wherein the subset of the search results having a second feature (having the letter 'O'

as the second letter in the title) and the same value of said first feature (having the letter

'N' as the first letter) are displayed along a second axis (such as the horizontal axis, see

Fig. 23), as the specific subset of NOVA programming is displayed in relation to the time

and day that the program occurs (Fig. 23; column 10, lines 20-44). Thus, the multiple

instances of the NOVA program are clearly displayed along a "second axis" of the

display.

In response to appellant's arguments on pages 10-11, regarding claim 7, it is

noted that Eick specifically discloses wherein programs are aggregated around a first

feature (first letter in the program title) and then further aggregated around a second

feature (second letter in the program title) (see Figs. 19, 21 and 22). The programs are not aggregated due to the user selecting the particular letter, as appellant implies, but are aggregated by the system according to program title. User selection of a particular letter merely expands the aggregated listings for display. The aggregation of the programming, and the selection of the features, is a result of the initiation of the program title search (column 9, lines 55-58). User selection of an alphabetical program listing results in the aggregated search results. User navigation and selection of particular letters within the guide was not relied upon to teach the aggregation, but merely the expansion and display of the already aggregated results. The displayed listing in Figs. 19-22 are simply the end result of prior aggregation, as the programming has already been separated based upon their corresponding titles.

It is the user input selection of an alphabetical title search which selects the first and second features to be utilized in the aggregation. For the alphabetical listing, these features are the first letter and second letter of the program titles.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer

exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal**

as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the

primary examiner by filing a reply under 37 CFR 1.111 with or without amendment,

affidavit or other evidence. Any amendment, affidavit or other evidence must be

relevant to the new grounds of rejection. A request that complies with 37 CFR

41.39(b)(1) will be entered and considered. Any request that prosecution be reopened

will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply

brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of

rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the

other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR

41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be

treated as a request that prosecution be reopened before the primary examiner under

37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO

MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to

reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex

parte reexamination proceedings.

Respectfully submitted,

/James Sheleheda/

Examiner, Art Unit 2424

A Technology Center Director or designee must personally approve the

new ground(s) of rejection set forth in section (9) above by signing below:

/Timothy P Callahan/

Director, Technology Center 2400

Conferees:

Chris Kelley

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424

Vivek Srivastava

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426